

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

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|--------------------------------|---|--------------|
| DESMUND LAMAR COLEMAN, PRO SE, | § | |
| TDCJ-CID No. 1264623, | § | |
| Previous TDCJ-CID No. 1087195, | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| v. | § | 2:12-CV-0223 |
| | § | |
| NEBIYU TESFAW, CO III, | § | |
| LISA SWINT, Lt., | § | |
| CHAD PERRY, Sgt., | § | |
| MICHAEL PARMER, Warden, and | § | |
| DUSTIN ANDERSON, Sgt., | § | |
| | § | |
| Defendants. | § | |

ORDER OF DISMISSAL

Plaintiff DESMUND LAMAR COLEMAN, acting pro se and while a prisoner incarcerated in the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-referenced defendants and has been granted permission to proceed pursuant to Title 28, United States Code, section 1915.

On November 26, 2012, a Report and Recommendation was issued by the United States Magistrate Judge recommending dismissal of the instant cause with prejudice as frivolous and without prejudice for failure to state a claim on which relief can be granted.

The period for response has expired, and no objections have been filed by plaintiff. Plaintiff did submit a November 30, 2012 letter complaining of new acts and omissions by new guards and restating his property complaint with a request for a transfer to the Hodge Unit.

Plaintiff's letter did not reference or in any way contest the reasoning and conclusions in the Report and Recommendation.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by plaintiff DESMUND LAMAR COLEMAN is DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED AND WITH PREJUDICE AS FRIVOLOUS.

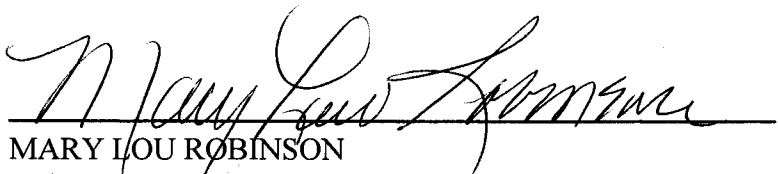
LET JUDGMENT BE ENTERED ACCORDINGLY.

Any pending motions are DENIED.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this the 18th day of December, 2012.


MARY LOU ROBINSON
United States District Judge